IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.12225 of 2005

Date of Decision: 6.11.2006

Gurmeet Kaur .....Petitioner

Versus

Chairman,Punjab State Social Welfare and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.HPS Ghuman, Advocate
for the petitioner.

Mr.Ashok Aggarwal, Addl.AG Punjab with
Mr.BS Chahal, AAG Punjab.

Mr.Yashwinder Pal Singh, Advocate for respondents 1 and 5.

Mr.BS Sidhu, Advocate for respondent 4.

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S.D.ANAND,J.

1. In pursuance of appointment order dated 2.5.2005 (Annexure P5), the petitioner joined duty as Anganwari Worker on 4.5.2005. On a grievance being made with regard to the manner of appointment aforesaid in an open Darbar, an enquiry was conducted by a joint team of two officers (SDM Abohar and District Program Officer, Ferozepur). Vide report dated 15.6.2005, the Enquiry Committee upheld the validity of the relevant appointment (of the petitioner) which had been made by respondent No.5 – Child Development and Project Officer, Khuian Sarvar (for short, to be

referred as the "CDPO"). In spite thereof, vide letter dated 19.7.2005, respondent No.3 directed respondent No.5 to cancel the appointments of Anganwari workers/helpers including the petitioner.

2. As per the case set up by the petitioner, her appointment as Anganwari worker was in order inasmuch as she is a graduate, is daughter-in-law of village Gidderanwali and her name had been duly recommended by the Gram Panchayat in pursuance of the Gram Sabha proceedings held on 12.8.2004. The applications of seven other candidates could not be recommended by the Gram Sabha as those had been received on 20.8.2004 after the Gram Sabha meeting had been held.

3. The precise grievance of the petitioner is that the cancellation of her appointment by respondent No.5 on the basis of the letter dated 19.7.2005 (Annexure P8) issued by respondent No.3 deserves to be invalidated.

4. Respondent No.1 – Chairman, Punjab State Social Welfare Advisory Board averred that the impugned appointment of the petitioner was not in order inasmuch as, in her case, the appointment letter had been issued by the CDPO at his own level without obtaining approval therefor from the Panchayat Samiti which is the competent authority to make such an appointment. The relevant averment is extracted as under:

> "On 28.4.2005, the CDPO addressed letter No.45 to the BDPO, Khuian Sarwar for obtaining the sanction of the Panchayat Samiti by conducting "the Block Samiti meeting upto 30.4.2005". That letter was received by the addressee - BDPO on 29.4.2005. He informed, vide letter No.372 dated 29.4.2005 the CDPO that the meeting of the Panchayat Samiti could not be held upto 30.4.2005 because the rules of business required at least 72 hours notice for convening the meeting of a Panchayat

Samiti. The CDPO, however, did not wait for the sanction aforesaid and proceeded to make the appointment of the petitioner, as Anganwari Worker, at his own level. Respondent No.1 received complaints through the Administrative Secretary of the Department with regard to the conduct of the CDPO. He enquired into the matter and found that irregularities had been committed in the impugned appointment. It was in the light thereof that the impugned cancellation of appointment came about."

5. Respondent No.2 – Director, Social Security & Women and Child Development, Chandigarh also made averments in line with the plea taken up by respondent No.1. The averment, in the context, is that:

"That in the present case, neither the Gram Sabha meeting was called nor did the CDPO send the panel of suitable candidates to the Panchayat Samiti for approval."

6. Heard. Records perused.

7. The selection method for appointment to the post of an Anganwari Worker indicated in instructions, Annexure R-4/1, is extracted as under:

"SELECTION METHOD

a) On receiving information regarding process of selection of Anganwari worker from the Child Development and Project Officer (CDPO), Gram Panchayat after giving due publicity will collect application in the meeting of Gram Sabha; and will send the same to the office of CDPO after preparing a panel of 3 to 5 candidates a vacancy within the fixed date. Attested copy of the resolution passed by the Gram Panchayat will also be sent in which the Gram Panchayat will clarify that the due publicity was done and applications and panel of candidates is sent with meritorious candidates. In case of less than 3

candidates it shall be certified that inspite of giving due publicity time and again no more applications were received by Gram Sabha.

b) The CDPO will prepare a merit list of suitable candidates according to the rules and instructions after receiving the application from the Gram Panchayat. According to the merit he will send the list to Panchayat Samiti for approval.

c) After receiving the approval from the Panchayat Samiti, CDPO will issue orders to entrust the works of Anganwari workers and in this respect, he will send information to the Gram Panchayat and the Panchayat Samiti. The application of all the selected candidates will be kept safe in the office of CDPO."

8. In the present case, there is not even an iota of material on the file to prove that any meeting of the Gram Sabha ever came to be held in the course whereof the name of the petitioner may have been recommended by the Gram Sabha. There is neither any material nor even an averment that any due publicity, for purposes of inviting the applications, had been given by the Gram Sabha. There is also nothing to indicate that the Gram Panchayat noticed in the record that "the due publicity was done". As evident from the quoted rule itself, the approval to the proposed appointment had to be given by the Panchayat Samiti. In the present case, the Block Development Officer had categorically informed the CDPO that the meeting could not be held before 30.4.2005 (as ordered by the latter) because there was not enough time to give 72 hours rule-related notice for the purpose of holding of that meeting. In the light of that response, it was just not open to the CDPO to proceed to make the impugned appointment at his own level. Once it is beyond the pale of controversy that the appointment had to be ultimately approved by the Panchayat Samiti, the

CDPO could not circumvent the requirement aforesaid, in any manner, particularly when he had been informed by the BDPO (who was to get the Panchayat Samiti meeting held) that there was not enough time to hold the meeting within the time frame indicated by the CDPO. There was no earthly and understandable reason for the CDPO to give a go-bye to the rules and proceed to make the impugned appointment at his own level. Thus, the present is a pure and simple case in which the appointment of the petitioner had not been made in accord with the instructions (Annexure R-4/1). There is, thus, obviously nothing wrong with the impugned cancellation of the appointment of the petitioner as Anganwari Worker.

9. The petition merits dismissal and it is so ordered accordingly. The sealed record, produced by CDPO before the Court on 12.9.2005, be returned by the Registry to the State Counsel for onward transmission to the quarters concerned.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

November 6, 2006
SRM